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IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,  
  
Plaintiff,  
  
v.  
  
ANTOINE FOWLER,  
  
Defendants.

CR-17-180 RS

DEFENDANT ANTOINE FOWLER'S  
SUPPLEMENTAL SENTENCING  
MEMORANDUM AND REQUEST  
FOR DEPARTURE AND VARIANCE

Date: January 7, 2020  
Time: 2:30 p.m.

HON. RICHARD SEEBORG

**I. Argument**

Although it may not be usual to file a supplemental sentencing argument, the government's sentencing brief contains an inaccurate characterization of Mr. Fowler's criminal history that deserves correction.

The government repeatedly suggests Mr. Fowler has a "penchant for domestic violence." Govt. Brief. P. 4:11-27. A "penchant" is a "strong and continued inclination" towards certain behavior. <https://www.merriam-webster.com/dictionary/penchant>. Here, the government's suggestion that Mr. Fowler's "penchant" for domestic violence based on his criminal history is belied by the facts.

1 His only prior convictions for any kind of violence, domestic or otherwise, happened 14  
2 and 12 years ago, and involved a single person – his significant other and the mother of his children,  
3 Andrea Smith. The first offense involved verbal threats he made to Ms. Smith, and the second involved  
4 a fight while he was under a restraining order. None of it is appropriate behavior, but, given the fact they  
5 happened over a decade ago, without any incidents since then, neither do they represent a defendant with  
6 a “penchant” for domestic violence.

7 Moreover, as noted in the Defendant’s Sentencing Brief, this contentious period in his  
8 relationship with Andrea Smith happened when Mr. Fowler was 21 and 23, and is best characterized as  
9 immature, impetuous behavior. He is now 34, and has matured so much that Ms. Smith has written a  
10 letter of support based largely on how wonderful a father and co-parent Mr. Fowler has become. *See*,  
11 Def. Sent. Brief, Ex. A.

12 Certainly, if Mr. Fowler had a “penchant for domestic violence”, or violent behavior of any  
13 kind, his criminal record would reflect that. It does not. Both the guideline criminal history points and  
14 the government’s characterization of Mr. Fowler’s criminal past are overstated.

15  
16 Dated: January 3, 2020

HALLINAN & WINE

17  
18 /s/ Kenneth Wine  
19 Kenneth H. Wine, Esq.  
20 Attorney for Defendant  
21 ANTOINE FOWLER  
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